

REMARKS

Entry of this amendment in accordance with the provisions of 37 C.F.R. §1.114 is respectfully requested.

This amendment is in response to the final Office Action dated December 29, 2004. Appreciation is expressed to the Examiner for the indication of allowable subject matter in claims 5, 11 and 12.

By the present amendment, claim 5 has been rewritten in independent form to include all subject matter of its parent claims 1 and 3. With regard to this, the language incorporated from claim 1 has been amended to eliminate the language regarding the controller being separate and independent from the second network element. As noted on page 2 of the Office Action, the controller of the claims can be read (solely for purposes of example) on the resource controller 44 located at the base station. Thus, in considering the original language of claim 1, the first network element can be read (solely for purposes of example) on the mobile stations 10 shown in Figures 1 and 2 whereas the second network element (solely for purposes of example) on the base station 12 shown in Figures 1 and 3. Therefore, with the amended claim language concerning claim 1, the limitation in question now reads on the controller being separate and independent from the first network element. This is in correspondence to the location of the resource and the base station, which would be separate and independent from the first network element corresponding to the mobile stations 14.

Accordingly, in light of the appropriate amending of the language of claim 1 incorporated into claim 5, removal of the 35 USC §112 rejection and reconsideration and allowance of independent claim 5 is respectfully requested.

Also by the present amendment, independent claims 1 and 8 have each been amended to incorporate a feature from claim 11 concerning the indication for the need for communication resources being based on the length of a data queue in the first network element. Referring to Figure 2 of the drawings, the data queue in question can be read (again, solely for purposes of example) as the data queue 22 provided in each of the mobile stations. The significance of this discussed, for example, on page 4, line 18 et seq. of the specification which states:

“The present invention improves on previous schemes by allocating the bandwidth among the various mobile stations which are currently connected to the base station. In order to do this, it is necessary for the base station to have some idea of the amount of data in the queue in the individual mobile stations. Prior art systems do not provide for this information to be given to the base station, nor are resources allocated in real time based on this information.”

Reconsideration and removal of the 35 U.S.C. §102(e) rejection of claims 8 and 10 as being anticipated by Basu (United States Patent No. 6,097,733) and the rejection of claims 1-4 and 6-7 as being unpatentable over Hwang (EP 0981229 A2) in view of Basu is respectfully requested. As noted above, each of the independent claims 1 and 8 has now been amended to specifically define that the indication of future need of communication resources is based on the length of a data queue in the first network element(s). As such, the claims now clearly define the feature

discussed in the above quoted portion of the specification from page 4, line 18 et seq. of the specification with regard to the improvement of the present invention over the prior art. Specifically, as noted above, the invention defined by claims 1 and 8 is based on determining the need for resources of the first network elements (for example, the mobile stations 14 of Figure 1) is based upon the length of the data queue of these first network elements (for example, the data queue 22 in Figure 2).

It is respectfully submitted that neither of the references to Basu or Hwang relied on in the rejection teach or suggest any such deprivation of an indication of future need based on the length of a data queue in a first network element. For example, in the Office Action, reference is made to Figure 7 in column 12, line 1 through column 13, line 3 for the original language of claim 8 that the allocation of communication resources is based upon the first station indicating a need of communication resources. Referring to Figure 7, it could be seen that the step 704 determines the nature of the access request (column 12, lines 11 and 12). More specifically, the step 704 determines whether bandwidth is necessary for voice or not. Step 726 determines whether bandwidth is necessary for multimedia if it is determined that the access request from the mobile station is not for voice. In neither case is any indication given in Basu regarding allocating resources from the base station in accordance with the length of a data queue in the mobile stations. Therefore, it is respectfully submitted that the amended independent claim 8 and its dependent claims 9 and 10 clearly define over the Basu reference, and

reconsideration and removal of the 35 U.S.C. §102(e) rejection of claims 8-10 as being anticipated by Basu is respectfully requested.

With regard to the Hwang reference, the Office Action refers to Figure 1 and column 4, lines 18-25 concerning the claim step of monitoring an indication of future need of communication resources in a first network element. Column 4, lines 18-25 refers to a mobile station including a transmit buffer 1b which temporarily stores transmit data according to requested radio data service. Although this must be of general interest, again, thus it completely fails to teach or suggest the allocation of resources based upon the length of a data queue of the mobile station. And, as noted above, Basu adds nothing to Hwang to make up for the shortcoming concerning the newly added claim limitations of claim 1. Therefore, reconsideration and allowance of claim 1, together with its dependent claims 2-4, 6 and 7 over the combination of Hwang and Basu is respectfully requested.

With regard to claims 11 and 12, these have been correspondingly amended to assure proper antecedent basis with regard to the amended parent claim 8. Therefore, reconsideration and allowance of claims 11 and 12 is also respectfully requested.

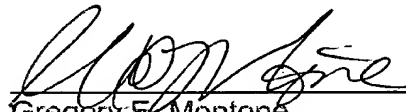
To the extent necessary, Applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the

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deposit account of Antonelli, Terry, Stout & Kraus, LLP, Deposit Account No.

01-2135 (referencing attorney docket no. 0172.39287X00).

Respectfully submitted,  
**ANTONELLI, TERRY, STOUT & KRAUS, LLP**

A handwritten signature in black ink, appearing to read "Gregory E. Montone", is written over a horizontal line.

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